

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Amendment of Policies and Rules)
Concerning Operator Service)
Providers and Call Aggregators)

CC Docket No. 94-158

FURTHER COMMENTS OF
THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION

The Competitive Telecommunications Association ("CompTel"), by its attorneys, respectfully submits the following comments on the Commission's Further Notice of Proposed Rulemaking ("*Further Notice*") in this docket.^{1/}

The Commission proposes to require aggregators to update the consumer information posted on or near a payphone within 30 days after a change in the phone's presubscribed carrier.^{2/} As CompTel stated in its initial comments in this docket, the consumer information posted on a public telephone should be updated as soon as reasonably practicable after a PIC change occurs. The inability or failure of some aggregators to update this information promptly frustrates OSPs because end users frequently blame the OSP, not the phone owner, for incorrect information posted at the telephone. Indeed, incorrect signage on the telephone is a common

^{1/} Report and Order and Further Notice of Proposed Rulemaking, FCC 96-75 (rel. Mar. 5, 1996).

^{2/} Id. at ¶ 44.

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source of informal complaints at the FCC and state PUCs.^{3/} Moreover, particularly at LEC payphones, OSPs have routinely been rebuked in their efforts to change LEC procedures to ensure the posted information is accurate and timely updated. The Commission, therefore, should prescribe a date certain by which the aggregator must update the posted information.

CompTel also agrees with the Commission's emphasis on the aggregator's responsibility to change the phone information promptly. Section 64.703(b), which the *Further Notice* proposes to amend, describes the *aggregator's* duties with respect to public phones.^{4/} This is the proper section to focus on because, ultimately, only the aggregator can control the information posted at the telephone location. The aggregator owns or controls the phone and is responsible for its maintenance and repair. In addition, the aggregator typically also owns or controls the physical premises where the telephone is installed. Therefore, the aggregator should be responsible for making sure that the information posted on its phones is correct.

In this regard, the Commission must be mindful of the limited influence OSPs have over the public telephone instrument. Most OSPs do not control the phones they serve, and do not have any rights of access to the phones. Therefore, they typically are unable to post information on the telephones, and must rely on the aggregator to do so. The Commission recognized this limited control when, in implementing TOCSIA, it specified that the OSP's duty is to "ensure, *by contract or by tariff*," that the aggregator is in compliance.^{5/} The OSP does not bear an affirmative obligation to provide the information described in § 64.703(b).

^{3/} FCC, *Common Carrier Scorecard*, at 4 (Fall 1995) (stating that end users "often don't realize which telephone company they are using"). Typically, the customer's complaint about incorrectly posted information is misdirected to the OSP, whom the customer often accuses of "tricking" them or "intercepting" their call.

^{4/} Section 64.703(b) reads "Each aggregator shall . . ." 46 C.F.R. § 64.706(b).

^{5/} 47 C.F.R. § 64.703(e).

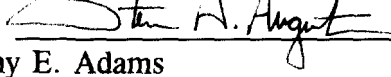
CompTel submits that the OSP has fulfilled its duty under Section 64.703(e) if (1) it does not knowingly allow aggregators to ignore their obligations under § 64.703(b), (2) it promptly notifies the aggregator of a PIC change, and (3) it aurally brands each call placed from the aggregator telephone. These three actions are all that an OSP feasibly may do to ensure consumers receive the information required by TOCSIA. Collectively, these actions put the aggregator on notice of its obligation, and give end users accurate information concerning the OSP that is handling their calls.

For these reasons, the Commission should modify its rules to make clear that the aggregator is responsible for updating posted information within a reasonable time period. The Commission should not place any additional burdens on the OSP, because they do not have the control necessary to ensure the posted information is correct.

Respectfully submitted,

THE COMPETITIVE
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